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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/753,338  | 01/09/2004  | Morimichi Watanabe   | 246924US3 DIV       | 7108             |
| 22850   | 7590        | 08/04/2004           | EXAMINER            |                  |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                      | GLESSNER, BRIAN E   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3635                |                  |

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/753,338

### Applicant(s)

WATANABE, MORIMICHI

### Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6 and 7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
  - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some \* c) ☐ None of:
    - 1. ☐ Certified copies of the priority documents have been received.
    - 2. ☒ Certified copies of the priority documents have been received in Application No. 10/197585.
    - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The following office action is in response to the application and preliminary amendment filed on January 9, 2004 and Information Disclosure Statement filed on May 13, 2004. Claims 1, 2, 6, and 7 are pending in the application. Claims 1, 2, 6, and 7 are rejected as set forth below.

#### ***Priority***

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

#### ***Claim Objections***

2. Claims 1 and 6 are objected to because of the following informalities: Claims 1 and 6 contain the limitation "ceramic type". This is indefinite because the examiner is not certain if ceramic type is ceramic, or if it is of a material that is like a ceramic material. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhafer et al. (6,055,787) in view of Saltzman (4,001,997).

In regard to claim 1, Gerhafer discloses a siding board capable of being used for clapboard boarding that is employed in a clapboard structure in which a plurality of siding boards are fastened to a framework of a building such that lower side portions of upper siding boards are overlapped frontward of upper side portions, wherein the siding board is a ceramic siding board, column 4, lines 10-11, the siding board comprising a rear surface stepped portion formed on the lower side portion that has been obtained by notching a rear surface of the siding board, and an upper end surface of the rear surface stepped portion formed to extend in a substantially straight line in lateral directions. Gerhafer does not specifically disclose that the board comprises vertical joint grooves on a designed surface thereof, wherein lower edges of a lower side portion are formed at different heights with boundaries of the vertical joint grooves. Saltzman teaches that it is known to provide vertical joint grooves and form different height boundaries on a lower side edge of a siding piece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Saltzman's teaching into Gerhafer's invention, because the joint grooves and different height edges will provide a more pleasing aesthetic appearance to the siding member. Further, as taught by Saltzman, the different height edges will provide the appearance of shingles of different heights, column 2, lines 19-23.

In regard to claim 2, Gerhafer in view of Saltzman disclose the basic claimed invention, wherein the board further comprises an engaging groove formed in the upper end surface of the

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rear surface stepped portion, which has been obtained by notching the upper end surface, and engaging notches formed at the upper side portion, which have been obtained by notching the designed surface of the siding boards, figure 1, wherein the engaging groove is configured to engage with upper-board engaging portions of fastening members for fastening the siding board to the framework, and wherein the engaging notches are configured to engage with lower-board engaging portions of the fastening member.

In regard to claim 6, Gerhaer in view of Saltzman disclose a clapboard boarding structure comprising a plurality of siding boards installed to a framework of a building such that lower portions of upper siding boards are overlapped frontward of upper side portions of lower siding boards. Gerhaer in view of Saltzman disclose all of features of applicant's claim 6. These limitations can be seen in the above rejection of claim 1. Gerhaer in view of Saltzman further disclose that each of the upper side portions of lower siding boards is disposed at the rear surface stepped portion formed on each of the lower side portions of upper siding boards.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhaer et al. (6,055,787) in view of Saltzman (4,001,997) and further in view of Hideki (10-088769).

In regard to claim 4, Gerhaer in view of Saltzman disclose the basic claimed invention, wherein the siding boards are fastened to the framework of the building by fastening members, each of the siding boards comprising an engaging groove formed in the upper end surface of the rear surface stepped portion, which has been obtained by notching the upper end surface upwardly, and engaging notches formed at the upper side portion, which have been obtained by notching the designed surface of the siding boards, figure 1, wherein each of the fastening members comprises a base plate portion 2 that is fixed to the framework, a supporting portion 22

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rising frontward from the base plate portion, an upper-board engaging portion upwardly bent, and a lower-board engaging portion 19 downwardly bent. Gerhafer does not specifically disclose that the upwardly bent portion is bent at the end of the supporting portion, or that the downwardly bent portion is bent from the end of the upwardly bent portion. Hideki teaches that it is known to provide a fastening means having the same configuration as applicant's claimed fastening member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Hideki's teaching into Gerhafer in view of Saltzman's invention, because the Hideki's fastening member is simpler in construction, and will be easier to use with the siding boards.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Abner et al, Mills, Wheeler, Turner, Olsen, Bogataj, Jones, Whitehouse, Funaki and Hikai.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian E. Glessner  
Primary Examiner  
Art Unit 3635

B.G.

August 3, 2004